

Issued May 21, 1913.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2328.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF MARASCHINO CHERRIES.

On November 25, 1912, the United States Attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 62 cases, each containing six half-gallon bottles, 17 cases, each containing 2 dozen quart tin cans, and 36 cases, each containing 4 dozen half-pint bottles of maraschino cherries, remaining unsold in the original unbroken packages and in the possession of R. U. Delapenha & Co., a corporation, Minneapolis, Minn., alleging that the product had been shipped from the State of New York into the State of Minnesota, and charging adulteration and misbranding in violation of the Food and Drugs Act. The 62 cases were labeled: "6 Bottles—Maraschino Cherries—R. U. Delapenha & Co., Minneapolis, Minn. Frt. Paid." The bottles therein were labeled: "Maraschino Cherries—Imperial Brand—Artificially colored (Design Coat of Arms of Russia and foreign medals)—R. U. Delapenha & Co., New York." The 17 cases were labeled: "24 Tins—CO—Maraschino Cherries—Geo. Dalidet & Company, Bordeaux, France, New York, U. S. A. R. U. Delapenha & Co., Minneapolis, Minn., Frt. Paid." The cans therein were labeled: "Geo. Dalidet & Co., Bordeaux, New York—Maraschino Cherries—Artificially Colored (Design a crown and six medals of award)." The 36 cases were labeled, "48/4 Bottles—CO—Maraschino Cherries—R. U. Delapenha & Co., Minneapolis, Minn., Frt. Paid." The bottles therein were labeled: "Maraschino Cherries—Imperial Brand—Artificially Colored (Design, Coat of Arms of Russia and foreign medals.) R. U. Delapenha & Co., New York."

Adulteration of the product was alleged in the libel for the reason that a substance, to wit, cherries of the Bigarreau type, had been

substituted for the product, to wit, genuine maraschino cherries, and a certain other substance, to wit, artificially colored and flavored sugar syrup had been substituted for the genuine maraschino liqueur. Misbranding was alleged for the reason that the said "Maraschino Cherries" were an imitation of and offered for sale under the distinctive name of another article, to wit, genuine maraschino cherries, which had theretofore been packed and mixed with genuine maraschino liqueur, and were not maraschino cherries, but were cherries of the Bigarreau type, which had been packed in a syrup not flavored with maraschino liqueur, but in a sugar syrup artificially colored and flavored in part with benzaldehyde. Misbranding was alleged for the further reason that the cherries were so branded as to deceive and mislead the purchasers thereof, by representing and purporting to be genuine maraschino cherries, when in truth and in fact the product consisted of Bigarreau cherries, and for the further reason that the label and brand appearing on the product bore statements, designs, and devices regarding the substance contained in the packages of the product which were false and misleading, in that said cherries were thereby represented to be genuine maraschino cherries, when in truth and in fact they were of the Bigarreau variety.

On November 27, 1912, the said R. U. Delapenha & Co., claimant, having consented to a decree, judgment of condemnation and forfeiture was entered, and it was further ordered that the product should be released and delivered to said claimant, upon payment of all costs of the proceeding and the execution of bond in the sum of \$500, in conformity with section 10 of the Act.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1913.*